

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DEWEY'S TRUCKING USA LLC,

Plaintiff,

v.

OPINION and ORDER

JAMI M. BOUDINOT, WAYLEN R. TRANSPORT
LLC, and TIGER DRAGONS TRUCKING LLC,

19-cv-738-jdp

Defendants.

Plaintiff Dewey's Trucking USA LLC has moved to reopen this case. Dkt. 31. The court entered default judgment against defendants Waylen R. Transport LLC and Tiger Dragons Trucking LLC on plaintiff's claims that defendants breached a leasing agreement, in violation of 49 C.F.R. § 376.12. But the court dismissed plaintiff's claims against defendant Jami M. Boudinot because plaintiff hadn't adequately supported its request to hold Boudinot personally liable for the other defendants' conduct. Dkt. 20. Plaintiff then moved to reopen the case as to Boudinot only, asking for an opportunity to conduct discovery to show that it was entitled to relief against Boudinot as well. Dkt. 22. The court denied that request without prejudice because plaintiff ignored Federal Rule of Civil Procedure 54(b), which prohibits the entry of partial judgment unless there is "no just reason for delay." Dkt. 24.

Plaintiff now renews its request, contending it can satisfy the requirements in Rule 54(b). Alternatively, it asks the court to vacate the judgment as to all defendants so that it can obtain relief against Boudinot.

The court will grant plaintiff's alternative request. Plaintiff says that entering a partial judgment is appropriate because the facts related to proving personal liability against Boudinot do not overlap with the facts related to the other defendants' breach of the leasing agreement.

But that is not the only question under Rule 54(b). “At a minimum, claims cannot be separate [under Rule 54(b)] unless separate recovery is possible on each.” *Amalgamated Meat Cutters & Butcher Workmen v. Thompson Farms Co.*, 642 F.2d 1065, 1070–71 (7th Cir. 1981). In this case, plaintiff is seeking the same recovery from each of the defendants, so entering a partial judgment would be improper.

I will vacate the judgment as to all of the defendants and give plaintiff opportunity to conduct discovery. After that, plaintiff may renew its motion for judgment.

ORDER

IT IS ORDERED that:

1. The motion to vacate the judgment filed by plaintiff Dewey’s Trucking USA LLC, Dkt. 31, is GRANTED as to all defendants.
2. Plaintiff may have until May 8, 2020, to conduct discovery and file a renewed request for judgment.
3. If plaintiff fails to respond by May 8, I will dismiss the case for failure to prosecute.

Entered February 6, 2020.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge